IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5473 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE BACKWARD CLASS VILLAGE DEV.COMMITTEE

Versus

STATE OF GUJARAT

Appearance:

MR MK VAKHARIA for Petitioners

MR. POOJARI. A.G.P. for Respondent No. 1, 2

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 30/04/2001

ORAL JUDGEMENT

1. Rule.

2. Mr. Poojari, learned Assistant Government Pleader appears and waives service of rule on behalf of

respondents.

3. The petitioner is aggrieved by an order passed by Collector, Surendranagar (Annexure - B) dated 22nd June, 1994, and a subsequent order passed by the Deputy Secretary (Appeals) Revenue Department on May 2nd, 2000 (Annexure - A) rejecting the revision preferred against the said order of the Collector, without going into the merits of the matter.

4. By the impugned order learned Collector, Surendranagar cancelled the order granting 4225 square meters of land of Survey No. 6 of Chotila for a Sarvajanik Kumar Chatralaya and Ashram Shala, observing that despite ample opportunity of hearing has been given, the petitioner did, not produce relevant materials to indicate that plans are preferred and construction is made, and therefore, the grant was cancelled after obtaining approval of the Government. Learned Deputy Secretary rejected the revision on the ground that the order of the Collector was at the behest of the Government and therefore the revision will not lie.

5. Mr. Vakharia, learned Advocate appearing for the petitioner has produced on record photographs as well as a copy of recognition certificate issued on November 20, 1987 by the Social Welfare Department for starting Ashram Shala for schedule caste students.

6. It is apparent that recognition was given in 1987. The photograph indicate that there already is a construction in existence and therefore, the order though passed after giving ample opportunity to the petitioners requires reconsideration. It would not be out of place to observe that no fault can be found with the Collector in passing the impugned order because ample opportunity was given to the petitioners, but failure on the part of an office bearer need not result into deprivation of education facility to schedule caste students. In a case where prima-facie there appears to be recognition and construction existing, and if this was produced the impugned order may not have been passed because that is the only reason in which the order is passed. Under the circumstances the order impugned herein passed by the learned Collector (Annexure B) is hereby quashed and set-aside with a direction to the petitioners to produce all relevant documents before the learned Collector, Surendranagar and when such documents are produced the Collector shall decide the question afresh in accordance with law. Mr. Vakharia, states that the petitioners will approach the Collector within four weeks from today

with all relevant documents and applications / representation. It is clarified that failure on part of the petitioner in approaching the Collector within four weeks as stated above will result in restoration of impugned order.

7. With the above observations this petition stands disposed of. Rule absolute as above. No orders as to costs.

(A.L. DAVE,J.)

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